

REMARKS UNDER 37 CFR § 1.111

Formal Matters

Claims 35-40, 42-45, 49-56 and 58-63 are pending after entry of the amendments set forth herein.

Claims 35-57 were examined. Claims 35-57 were rejected.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Office Action

In the Official Action of September 14, 2005, claims 35-56 were rejected under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 1, 13, 2-7, 12, 8, 9 of U.S. Patent No. 6,652,454. The Examiner indicated that although the conflicting claims were not identical, that they were not patentably distinct from each other because the current claims were considered to include less elements than the patent claims and thus be generic to the patented claims. Although Applicants do not necessarily agree with this ground of rejection, particularly in view of the above amendments, and thus do not acquiesce thereto, Applicants are submitting herewith a Terminal Disclaimer in order to advance the prosecution of the present application. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 35-40, 42-45, and 49-56 (claims 41, 46-48 and 57 having been canceled without prejudice above) under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 1, 13, 2-7, 12, 8, 9 of U.S. Patent No. 6,652,454, as being no longer appropriate.

Claims 35-42, 44 and 46-57 were rejected under 35 U.S.C. Section 102(e) as being anticipated by Hancock, U.S. Patent No. 6,331,157. In view of the above amendments of the claims and the remarks that follow, the Examiner is respectfully requested to reconsider and withdraw this ground of rejection as being no longer appropriate. Claim 35 has been amended above to further specify that the suture lock is substantially rigid. Hancock describes a clamp 61 comprising a leaf 63 which deflects so as to fit into aperture 67, and deflects to allow a suture to be drawing into slot 66, see column 6, line 62 – column 7, line 8. Accordingly, it is respectfully submitted that Hancock fails to disclose a suture stay including all of the features currently recited in claim 35.

Claim 51 has been amended to recite that said suture lock is adapted to move away from the side of the slot while remaining substantially undeformed to allow the free end portion of the suture to be pulled into the slot. Since the leaf 63 of Hancock deforms (i.e., deflects) as a suture is being drawn into the slot, Hancock clearly fails to disclose a suture stay as presently recited in claim 51.

Claim 54 has been amended to recite that the suture lock is adapted to pivot away from a side of the slot as the end portion of the surgical suture is pulled into the slot. The leaf 63 of Hancock does not pivot, but rather is deflected as the suture is drawn into the slot.

All of the other rejected claims each depend from one of claims 35, 51 and 54 and it is respectfully submitted that these claims define over Hancock for at least the reasons provided with regard to claims 35, 51 and 54, respectively.

Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 35-40, 42, 44, and 49-56 (claims 41 and 46-48 having been canceled without prejudice above) under 35 U.S.C. Section 102(e) as being anticipated by Hancock, U.S. Patent No. 6,331,157, as being no longer appropriate.

It is further submitted that new claims 58-63 patentably define over the art of record. Independent claim 58 recites a suture stay adapted for use in a surgical retractor system, said suture stay being adapted to receive free end portions of a surgical suture and retain the suture under tension, said suture stay comprising: a primary slot section adapted to receive multiple free end suture portions; multiple secondary slot sections extending from said primary slot section, each secondary slot section adapted to receive a free end suture portion; and a suture lock movably mounted with respect to one of said slot sections and adapted to move away from a side of said slot as the free end portion of the suture is pulled into the slot section, said suture lock being biased against a side of said slot section to press said free end portion against said side of said slot section thereby preventing said free end portion from moving within said slot section. It is respectfully submitted that neither Hancock, nor any of the other art or record, whether taken alone or in any proper combination, discloses, teaches or suggests the features recited in claim 58. Claims 59-63 depend from claim 58 and it is respectfully submitted that these claims also patentably define over the art of record, for at least the same reasons as claim 58.

Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-010CON2.


Respectfully submitted,

LAW OFFICE OF ALAN W. CANNON

Date: _____

12/14/05

By: _____


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